

## Statement to the Economic Affairs Interim Committee

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Jana Staton  
Missoula Partners for Reintegration (PFR)  
and Welcome Back

Madam Chair, Members of the Committee:

I represent Missoula Partners for Reintegration, a community reentry coalition of providers, agencies returning citizens and community members. I am also an active member of a PFR partner organization, Welcome Back, the advocacy group for and led by returning citizens.

We are asking you to support a robust investigation of how licensing boards understand and implement the very clear intent of the Montana Constitution [ Article II, 28 "Full rights are restored by termination of state supervision for any offense against the state"], and the intent of Legislature, codified in the Montana Annotated Code. 37.1.201: "The public is best protected when offenders are given the opportunity to secure employment or to engage in a meaningful occupation," by ensuring that a prior criminal conviction cannot be an automatic restriction of licensing, especially for occupations unrelated to the past criminal act.

Of course, the devil is in the details, and in the procedures that boards have, or have not developed, to ensure that the Legislature's intent is realized.

Let's look at the numbers: a recent scientific study estimated that 54, 462 Montanans still living currently have had a felony conviction, based on 2010 population and DOC data from a recent national study.\*\* That number is about 5% of Montana's working-age population over 18. Montana's population has increased about 1% a year in the last decade, so in ten years, we probably have gained a few thousands more. And we can estimate that perhaps 20% of Montanans with felony convictions are Native Americans, based on the average number of Native Americans under DOC supervision, a number closer to 10,000.

This Study Bill is to determine the extent of difficulties for returning citizens in seeking occupational licenses, whether Boards vary in their procedures for fair and transparent processes, and to determine if there are legislative remedies. I'd like to focus my remaining comment on what a pro-active, positive, Second Chance licensing process look like.

- ✓ Licensing should not be denied for occupations unrelated to the prior crime.
- ✓ Applying for an occupational license, for those with a prior criminal conviction, should be a clear, transparent, straightforward process with guidelines about what evidence returning citizens need to present about their rehabilitation, satisfaction of DOC supervision, training for the occupation, reintegration into community life, along with character and professional references.
- ✓ Licensing should openly and explicitly encourage returning citizens, along with all other citizens to pursue training and education for skilled trades, professional occupations, including health care, education, service industries with assurance that if they're doing everything right, they can be licensed.
- ✓ Denials of licensure should be specific to the individual's current status and effort, and should not be for vague reasons such as "conflicts with community health and safety," or "not sufficiently rehabilitated," without being given specific steps that can be taken to reapply.

\*\* Shannon et al, "The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948–2010." (2017), *Demography*, 54, 5, pp. 1795-1818.

If access to licensed occupations is occurring because there are not clear, transparent, do-able processes for applicants to show evidence of rehabilitation and productive citizenship, we will ensure that returning citizens are confined to low-wage jobs and will continue struggling to support their children and families, to pay fines and restitutions, and to find stable housing. Essentially, a prior criminal conviction results in permanent economic disenfranchisement.

We ask that the Committee ensure that all state licensing boards have a standard, clear, transparent process for making decisions about individuals with prior felony records who have successfully rehabilitated, who are living as responsible citizens, and have the appropriate training. Let me repeat, Montana's Constitution Article II.28.02 states that "Full rights are restored by termination of state supervision for any offense against the state."

Thank for allowing me the opportunity to speak to you.

Jana Staton  
629 Beverly Avenue  
Missoula MT 59801

**Montana Code Annotated 2019**  
***TITLE 37. PROFESSIONS AND OCCUPATIONS***  
**CHAPTER 1. GENERAL PROVISIONS**

**Part 2. Licensure of Criminal Offenders**

37-1-201 Purpose

It is the public policy of the legislature of the state of Montana to encourage and contribute to the rehabilitation of criminal offenders and to assist them in the assumption of the responsibilities of citizenship. The legislature finds that the public is best protected when offenders are given the opportunity to secure employment or to engage in a meaningful occupation, while licensure must be conferred with prudence to protect the interests of the public.

37-1-202 Intent and policy

It is the intent of the legislature and the declared policy of the state that occupational licensure be granted or revoked as a police power of the state in its protection of the public health, safety, and welfare.

37-1-203 Conviction not a sole basis for denial

Criminal convictions shall not operate as an automatic bar to being licensed to enter any occupation in the state of Montana. No licensing authority shall refuse to license a person solely on the basis of a previous criminal conviction; provided, however, where a license applicant has been convicted of a criminal offense and such criminal offense relates to the public health, welfare, and safety as it applies to the occupation for which the license is sought, the licensing agency may, after investigation, find that the applicant so convicted has not been sufficiently rehabilitated as to warrant the public trust and deny the issuance of a license.

37-1-204 Statement of reasons for denial

When a licensing agency prohibits an applicant from being licensed wholly or partially on the basis of a criminal conviction, the agency shall state explicitly in writing the reasons for the decision.

37-1-205 Licensure on completion of supervision Completion of probation or parole supervision without any subsequent criminal conviction is evidence of rehabilitation. However, the facts surrounding the situation that led to the probation or parole supervision may be considered as they relate to the occupation for which a license is sought, and this chapter may not be construed to prohibit licensure of a person while the person is under state supervision if the licensing agency finds insufficient evidence to preclude licensure.